building or station-house which may be ordered, in cases where the site selected by the railroad's officials is inconvenient or inaccessible, but every depot must be located with due regard to the interest of railroad and public convenience." "The commission may require every railroad to provide sufficient depot, storage and platform facilities * * * and shall make such order thereon to secure the same as the facts and the public convenience may warrant." "The railroad commission shall have authority to cause to be instituted and prosecuted all proper legal proceedings by mandamus or otherwise to enforce the provisions of this act." The court indulges in grave forebodings and seems to believe that the granting of the mandamus would mean to insure to "any little town any number of depots to suit the changing convenience of a shifting population." But such inference is unwarranted. The statute gives due regard to the interest of the railroad and the public convenience. And plainly, if a depot is *reasonably* necessary to public convenience, whether in a city or a village, by the plain terms of the statute, such depot must be built. In strictly construing these provisions, the court apparently ignored that provision requiring the establishment and maintainance of such depots as are reasonably necessary for the public convenience, and, although it was conceded that the old station was not convenient, in fact grossly inconvenient, the mandamus was denied because the company already maintained a depot and did not choose to build another. The company was thus made the final judge, and if, after consulting its own interest, it has considered the erection of a second depot inadvisable, it may ignore the order made, fail to choose a depot site and the matter is closed, regardless of the rights of the public. The provisions are clear that *such depots* as are reasonably necessary for the public convenience must be built and the commission is empowered to compel the provision of sufficient depot facilities. If, however, in pursuance of such order the railroad select a site that is inconvenient or inaccessible, it may be selected by the commission. The conclusion must follow, unless the provision is to be nugatory, that if the railroad not only fails to select an accessible site but no site at all, then and in that case the commission may itself designate the location. There was one dissenting opinion, citing: *State* v. *R. R. Co.,* 18 Neb. 512, 24 N. W. 329, 52 Am. Rep. 424; *R. R. Commrs.* v. *Portland & O. C. R. Co.,* 63 Me. 270, 18 Am. Rep. 208.

RECORDING LAWS—DEED GIVEN AS MORTGAGE—NOTICE.—Complainant, whose mortgage had been recorded as a warranty deed on the entry book of deeds, brings suit to foreclose. No defeasance had been recorded. Defendant is a subsequent purchaser of the property without actual knowledge of the existence of the prior deed. *Held,* that such recording, in view of the statute, was no notice to defendant. *Grand Rapids National Bank* v. *Ford et al.* (1906), — Mich. —, 106 N. W. Rep. —, 13 Det. Leg. News, 10.

The Michigan statute requires the entry on separate books of all deeds and those "not intended as mortgages or securities," and all mortgages and all other deeds "intended as securities," and further declares that any conveyance "not recorded as provided in this chapter" shall be void as against

any subsequent purchaser in good faith and for a valuable consideration, whose conveyance shall be first duly recorded. It is held under the recording acts of some states that require separate entry books for mortgages and deeds, that every one is presumed to know that a deed absolute on its face may have been intended as a mortgage and is affected with "notice of every right less than absolute ownership the person holding has under a deed so recorded." *Kennard* v. *Mabry,* 78 Tex. 151, 156, 14 S. W. 272; *Haseltine* v. *Espey,* 13 Ore. 301, 306, 10 Pac. Rep. 423. However, in Michigan, by statute the burden is upon the person offering the paper for record to see that the instrument is properly recorded. *Barnard* v. *Campau,* 29 Mich. 163, 164; *Gordon* v. *Hydraulic Co.,* 117 Mich. 620, 629. And therefore the court's conclusion that the statute is mandatory and its non-compliance a protection to a purchaser without notice, is irresistible. *Gillig* v. *Maas,* 28 N. Y. 191, 214; *Calder* v. *Chapman,* 52 Pa. 359, 362, 91 Am. Dec. 163.

TAXATION—ASSESSMENT—CORPORATE STOCK.—The statutes of New York require real estate to be assessed at its full value when taxed as such, and also that in order to ascertain the value of corporate capital for taxation all the property owned by the corporation, both real and personal, shall be appraised at its full value, and from the aggregate the assessed value of the real estate shall be deducted. For the purpose of fixing the taxable value of the capital of a corporation, the tax commissioners appraised the real estate of the corporation at $25,000 more than its assessed value as fixed by the deputy tax commissioners. On review, *held,* that the commissioners could not appraise the real estate higher than its assessed value when taxed as real estate. *People ex rel. Merchants' Real Estate Co.* v. *Wells et al., Tax Comrs.* (1905), 97 N. Y. Supp. 47.

The majority opinion is short and is based wholly on the principle that to allow the commissioners to "fix a different value upon the same property for different purposes" would be to introduce "an element of uncertainty and inconsistency" which might result in double taxation. Judge Laughlin, in a dissenting opinion (Judge Houghton concurring), states what seems to be a better doctrine and one which is thoroughly in accord with former New York decisions—i. e., that in determining the value of real estate for the purposes of ascertaining the taxable corporate capital, the tax commissioners are not bound by the assessed valuation. *People ex rel. Equitable Gas Light Co.* v. *Barker et al., Tax Comrs.,* 144 N. Y. 94; *People ex rel. Clearing House* v. *Barker et al., Tax Comrs.,* 31 App. Div. (N. Y.), 315, affirmed in 158 N. Y. 709, and in 179 U. S. 279. The fact that the commissioners undervalued the real estate in its assessment as such ought not to estop the public nor relieve the commissioners of the duty, in ascertaining the value of the capital, to estimate the real estate at its full value. The purpose of the statute providing for the method of finding the taxable value of capital stock seems to be that all the property of the corporation shall be assessed at its aggregate actual value, and so much of it as would otherwise escape taxation by reason of an undervaluation of realty when taxed as such shall be assessed as capital. Construing the statute in this manner does no injustice, since under this construction the corporation will in no case pay taxes on